

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

COURTNEY DIANA, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

Case No. 2:13-CV-07418-CCC-MF

HORIZON HEALTHCARE SERVICES,  
INC., d/b/a HORIZON BLUE CROSS BLUE  
SHIELD OF NEW JERSEY, a New Jersey  
corporation,

Defendant.

KAREN PEKELNEY and MARK MEISEL,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs,

Case No. 2:14-cv-00584-CCC-MF

v.

HORIZON HEALTHCARE SERVICES,  
INC., d/b/a HORIZON BLUE CROSS BLUE  
SHIELD OF NEW JERSEY, a New Jersey  
corporation.

**[PROPOSED] ORDER APPOINTING PLAINTIFFS' INTERIM CO-LEAD COUNSEL**

WHEREAS, the following two related putative class action lawsuits are pending before the Court: *Diana v. Horizon Healthcare Services, Inc., d/b/a Horizon Blue Cross Blue Shield of New Jersey*, No. 2:13-CV-07418-CCC-MF, and *Pekelney v. Horizon Healthcare Services, Inc., d/b/a Horizon Blue Cross Blue Shield of New Jersey*, No. 2:14-CV-00584-CCC-MF (collectively, the "Actions"); and

WHEREAS, this matter coming before the Court on Plaintiff Courtney Diana's Notice of Cross-Motion for Appointment of Plaintiff's Interim Co-Lead Counsel and in Opposition to Motion of Karen Pekelney and Mark Meisel to Consolidate Cases and Appoint Interim Lead Class Counsel and Liaison Counsel [Dkt. 17] and on Plaintiffs Karen Pekelney and Mark Meisel's Notice of Motion to Consolidate Cases and Appoint Interim Lead Class Counsel and Liaison Counsel [Dkt. 4]; and

WHEREAS in response to these motions, Defendant noted its agreement to consolidate and noted it takes no position on the appointment of interim co-lead counsel [Dkt. 23]; and

WHEREAS, after meeting and conferring, all Plaintiffs' counsel agreed to consolidate the actions and to appoint the following attorneys as Interim Co-Lead Counsel: Ben Barnow of Barnow and Associates, P.C.; Philip A. Tortoreti of Wilentz, Goldman & Spitzer, P.A.; Laurence D. King of Kaplan Fox & Kilsheimer LLP; and Joseph J. DePalma of Lite DePalma Greenberg, LLC.

WHEREAS, the Court being duly advised of the premises;

**IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:**

1. Plaintiffs' Motion for Appointment of Plaintiffs' Interim Co-Lead Counsel is GRANTED.

2. The Actions are consolidated for all purposes.
3. Pursuant to Rule 23(g) of the Federal Rules of Civil Procedure, the Court appoints the following attorneys as Plaintiffs' Interim Co-Lead Counsel: Ben Barnow of Barnow and Associates, P.C.; Philip A. Tortoreti of Wilentz, Goldman & Spitzer, P.A.; Laurence D. King of Kaplan Fox & Kilsheimer LLP; and Joseph J. DePalma of Lite DePalma Greenberg, LLC.
4. The organizational structure established by this Order shall bind Plaintiffs' counsel in the Actions and counsel in all later-filed cases transferred to, or filed in, this Court, which shall also be governed by this Order.
5. When a case that properly belongs as part of or related to the Actions is filed in this Court or is transferred to this Court from another court, the Clerk of Court shall:
  - (a) place a copy of this Order in the separate file for such action;
  - (b) provide a copy of this Order by mail or electronically to all counsel for plaintiff(s) and defendant(s) in the newly-filed or transferred case; and
  - (c) make an appropriate entry on the docket in the Actions. The Court requests the assistance of counsel in calling to the attention of the Clerk of Court the filing or transfer of any case which properly might be consolidated with or transferred as related to the Actions.
6. Plaintiffs' Interim Co-Lead Counsel shall have day-to-day responsibility for the conduct of the Actions; shall determine how to prosecute the Actions; and shall initiate, coordinate, and supervise the efforts of Plaintiffs' counsel in the Actions in the areas of discovery, briefing, trial and settlement. In particular, the following responsibilities shall be performed in accordance with the consensus of Plaintiffs' Interim Co-Lead Counsel:
  - (a) Preparing and filing a consolidated class action complaint;
  - (b) Briefing and arguing motions and filing opposing briefs on matters initiated by other parties;
  - (c) Initiating and conducting discovery proceedings;

- (d) Acting as the spokespersons at Court appearances;
- (e) Negotiating with Defendant's counsel with respect to settlement and other matters;
- (f) Calling meetings of Plaintiffs' counsel when they deem it appropriate;
- (g) Determining and making work assignments to Plaintiffs' counsel as they deem appropriate to facilitate the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive efforts;
- (h) Conducting trial and post-trial proceedings;
- (i) Consulting with and employing experts as they may deem appropriate;
- (j) Performing such other duties and undertaking such other responsibilities as they deem necessary or desirable; and
- (k) Coordinating and communicating with Defendant's counsel with respect to matters addressed in this paragraph.

7. No motion, request for discovery, or other pre-trial proceeding shall be initiated, filed, presented to the Court, or replied or responded to by any Plaintiff or their counsel, except through the consensus of Plaintiffs' Interim Co-Lead Counsel.

8. Plaintiffs are granted leave to file a Consolidated Class Action Complaint within thirty days of this Order.

IT IS SO ORDERED

Dated: May 22, 2014

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The Honorable Claire C. Cecchi  
United States District Judge